

ASSEMBLY BILL

No. 1021

Introduced by Assembly Member Gordon

February 18, 2011

An act to amend Sections 9005 and 9087 of the Elections Code, and to amend Section 88003 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1021, as introduced, Gordon. Ballot measures: fiscal analysis.

Existing law directs the Attorney General, in preparing a circulating title and summary for a proposed ballot initiative, to include an estimate of the amount of increase or decrease of revenues or costs to the state. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to jointly make and deliver such an estimate to the Attorney General so that he or she may include it in the circulating title and summary.

This bill would, based on the fiscal analysis by the Department of Finance and the Joint Legislative Budget Committee, that a measure which would establish a new or expanded program costing more than \$1,000,000 per year without providing new revenues or eliminating existing programs to offset those costs, require that specified language be provided to the Attorney General which may be included in the circulating title and summary advising that the proposed initiative does not include sufficient funding to pay the cost of the measure.

Existing law directs the Legislative Analyst to prepare an unbiased fiscal analysis of a measure that is included in the ballot pamphlet stating whether the measure would result in increased or decreased costs to the state and an estimate of those costs or savings.

This bill also would require, if a fiscal analysis by the Legislative Analyst determines that a measure would establish a new or expanded program costing more than \$1,000,000 per year without providing new revenues or eliminating existing programs to offset those costs, that specified language be added to the ballot pamphlet advising that the proposed measure does not include sufficient funding to pay the cost of the measure.

This bill would also make technical changes to conform provisions of the Political Reform Act of 1974 and parallel provisions in the Elections Code relating to the ballot pamphlet.

The Political Reform Act of 1974, an initiative measure, generally provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

The act also provides that, notwithstanding this requirement, the Legislature may amend specified provisions to add to the ballot pamphlet information regarding candidates or other information.

This bill, which would permit or require additional information to be included in the ballot pamphlet, would therefore require a majority vote.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9005 of the Elections Code is amended
- 2 to read:
- 3 9005. (a) The Attorney General, in preparing a circulating title
- 4 and summary for a proposed initiative measure, shall, in boldface
- 5 print, include in the circulating title and summary either the
- 6 estimate of the amount of any increase or decrease in revenues or
- 7 costs to the state or local government, or an opinion as to whether
- 8 or not a substantial net change in state or local finances would
- 9 result if the proposed initiative is adopted.
- 10 (b) The estimate as required by this section shall be made jointly
- 11 by the Department of Finance and the Joint Legislative Budget
- 12 Committee, who shall deliver the estimate to the Attorney General
- 13 so that he or she may include the estimate in the circulating title
- 14 and summary prepared by him or her.
- 15 (c) The estimate shall be delivered to the Attorney General
- 16 within 25 working days from the date of receipt of the final version

1 of the proposed initiative measure from the Attorney General,
2 unless, in the opinion of both the Department of Finance and the
3 Joint Legislative Budget Committee, a reasonable estimate of the
4 net impact of the proposed initiative measure cannot be prepared
5 within the 25-day period. In the latter case, the Department of
6 Finance and the Joint Legislative Budget Committee shall, within
7 the 25-day period, give the Attorney General their opinion as to
8 whether or not a substantial net change in state or local finances
9 would result if the proposed initiative measure is adopted.

10 (d) A statement of fiscal impact prepared by the Legislative
11 Analyst pursuant to subdivision (b) of Section 12172 of the
12 Government Code may be used by the Department of Finance and
13 the Joint Legislative Budget Committee in the preparation of the
14 fiscal estimate or the opinion.

15 (e) *If an initiative measure submitted for circulating title and*
16 *summary is determined in the joint analysis of the Joint Legislative*
17 *Budget Committee and Department of Finance to (1) establish a*
18 *new or expanded program, (2) cost more than one million dollars*
19 *(\$1,000,000) per year, excluding costs attributable to the issuance,*
20 *sale, or repayment of general obligation bonds, and (3) not either*
21 *provide new revenues or eliminate all or part of existing programs*
22 *sufficient to pay the cost of the new or expanded program or*
23 *service, a paragraph shall be provided to the Attorney General,*
24 *at the same time as the estimate provided pursuant to subdivision*
25 *(c), which may be included in the title and summary prepared by*
26 *the Attorney General pursuant to Section 9004, stating as follows:*

27 *“The Joint Legislative Budget Committee and Department of*
28 *Finance have determined that this measure does not include*
29 *sufficient funds to pay the cost of the new or expanded program*
30 *or service provided therein. Therefore, should the measure pass,*
31 *other programs or services provided by the state would need to*
32 *be reduced or eliminated, or new state revenues raised, in order*
33 *for the measure to be implemented.”*

34 SEC. 2. Section 9087 of the Elections Code is amended to read:

35 9087. (a) The Legislative Analyst shall prepare an impartial
36 analysis of the measure describing the measure and including a
37 fiscal analysis of the measure showing the amount of any increase
38 or decrease in revenue or cost to state or local government. If it is
39 estimated that a measure would result in increased cost to the state,
40 an analysis of the measure’s estimated impact on the state shall be

1 provided, including an estimate of the percentage of the General
2 Fund that would be expended due to the measure, using visual aids
3 when appropriate. An estimate of increased cost to the state or
4 local governments shall be set out in boldface print in the ballot
5 pamphlet.

6 (b) The analysis shall be written in clear and concise terms, so
7 as to be easily understood by the average voter, and shall avoid
8 the use of technical terms wherever possible. The analysis may
9 contain background information, including the effect of the
10 measure on existing law and the effect of enacted legislation which
11 will become effective if the measure is adopted, and shall generally
12 set forth in an impartial manner the information the average voter
13 needs to adequately understand the measure. To the extent
14 practicable, the Legislative Analyst shall utilize a uniform method
15 in each analysis to describe the estimated increase or decrease in
16 revenue or cost of a measure, so that the average voter may draw
17 comparisons among the fiscal impacts of measures. The condensed
18 statement of the fiscal impact summary for the measure prepared
19 by the Attorney General to appear on the ballot shall ~~contain~~ *be*
20 *followed immediately by* the uniform estimate of increase or
21 decrease in revenue or cost of the measure prepared pursuant to
22 this subdivision.

23 (c) The Legislative Analyst may contract with ~~a professional~~
24 ~~writer~~ *writers*, ~~educational specialist~~ *specialists*, or ~~another person~~
25 ~~other persons~~ for assistance in writing an analysis that fulfills the
26 requirements of this section, including the requirement that the
27 analysis be written so that it will be easily understood by the
28 average voter. The Legislative Analyst may also request the
29 assistance of a state department, agency, or official in preparing
30 his or her analysis.

31 (d) Prior to submitting the analysis to the Secretary of State, the
32 Legislative Analyst shall submit the analysis to a committee of
33 five persons, appointed by the Legislative Analyst, for the purpose
34 of reviewing the analysis to confirm its clarity and easy
35 comprehension to the average voter. The committee shall be drawn
36 from the public at large, and one member shall be a specialist in
37 education, one member shall be bilingual, and one member shall
38 be a professional writer. Members of the committee shall be
39 reimbursed for reasonable and necessary expenses incurred in
40 performing their duties. Within five days of the submission of the

1 analysis to the committee, the committee shall make
2 recommendations to the Legislative Analyst as it deems appropriate
3 to guarantee that the analysis can be easily understood by the
4 average voter. The Legislative Analyst shall consider the
5 committee's recommendations, and he or she shall incorporate in
6 the analysis those changes recommended by the committee that
7 he or she deems to be appropriate. The Legislative Analyst is solely
8 responsible for determining the content of the analysis required
9 by this section.

10 (e) The title of the measure that appears on the ballot shall be
11 amended to contain a summary of the Legislative Analyst's
12 estimate of the net state and local government fiscal impact.

13 (f) *If a measure qualifies for the ballot and the Legislative*
14 *Analyst's analysis pursuant to this section determines that the*
15 *measure would (1) establish a new or expanded program, (2) cost*
16 *more than one million dollars (\$1,000,000) per year, excluding*
17 *costs attributable to the issuance, sale, or repayment of general*
18 *obligation bonds, if implemented, and (3) does not either provide*
19 *new revenues or eliminate all or part of existing programs*
20 *sufficient to pay the cost of the new or expanded program or*
21 *service, a paragraph shall be added to the summary statement*
22 *established pursuant to Section 9085 of the ballot pamphlet*
23 *prepared pursuant to Section 9081, stating as follows:*

24 "This measure does not include sufficient funds to pay the cost
25 of the new or expanded program or service provided therein.
26 Therefore, should the measure pass, other programs or services
27 provided by the state would need to be reduced or eliminated, or
28 new state revenues raised, in order for the measure to be
29 implemented."

30 SEC. 3. Section 88003 of the Government Code is amended
31 to read:

32 88003. (a) The Legislative Analyst shall prepare an impartial
33 analysis of the measure describing the measure and including a
34 fiscal analysis of the measure showing the amount of any increase
35 or decrease in revenue or cost to state or local government. ~~Any~~
36 ~~estimate of increased cost to~~ *If it is estimated that a measure would*
37 *result in increased cost to the state, an analysis of the measure's*
38 *estimated impact on the state shall be provided, including an*
39 *estimate of the percentage of the General Fund that would be*
40 *expended due to the measure, using visual aids when appropriate.*

1 *An estimate of increased cost to the state or local governments*
2 *shall be set out in boldface print in the ballot pamphlet.*~~The~~

3 *(b) The analysis shall be written in clear and concise terms which*
4 *will, so as to be easily understood by the average voter, and*
5 *shall avoid the use of technical terms wherever possible. The*
6 *analysis may contain background information, including the effect*
7 *of the measure on existing law and the effect of enacted legislation*
8 *which will become effective if the measure is adopted, and shall*
9 *generally set forth in an impartial manner the information which*
10 *the average voter needs to adequately understand the measure*
11 ~~*adequately. The*~~ *To the extent practicable, the Legislative Analyst*
12 *shall utilize a uniform method in each analysis to describe the*
13 *estimated increase or decrease in revenue or cost of a measure,*
14 *so that the average voter may draw comparisons among the fiscal*
15 *impacts of measures. The condensed statement of the fiscal impact*
16 *summary for the measure prepared by the Attorney General to*
17 *appear on the ballot shall be followed immediately by the uniform*
18 *estimate of increase or decrease in revenue or cost of the measure*
19 *prepared pursuant to this subdivision.*

20 *(c) The Legislative Analyst may contract with professional*
21 *writers, educational specialists, or other persons for assistance in*
22 *writing an analysis that fulfills the requirements of this section,*
23 *including the requirement that the analysis be written so that it*
24 *will be easily understood by the average voter. The Legislative*
25 *Analyst may also request the assistance of any a state department,*
26 *agency, or official in preparing his or her analysis.*~~Prior~~

27 *(d) Prior to submission of submitting the analysis to the*
28 *Secretary of State, the Legislative Analyst shall submit the analysis*
29 *to a committee of five persons appointed by the Legislative analyst*
30 *Analyst for the purpose of reviewing the analysis to confirm its*
31 *clarity and easy comprehension to the average voter. The*
32 *committee shall be drawn from the public at large, and one member*
33 *shall be a specialist in education, one member shall be bilingual,*
34 *and one member shall be a professional writer. Members of the*
35 *committee shall be reimbursed for reasonable and necessary*
36 *expenses incurred in performing their duties. Within five days of*
37 *the submission of the analysis to the committee, the committee*
38 *shall make such recommendations to the Legislative Analyst as it*
39 *deems appropriate to guarantee that the analysis can be easily*
40 *understood by the average voter. The Legislative Analyst shall*

1 consider the committee's recommendations, and he or she shall
2 incorporate in the analysis those changes recommended by the
3 committee that he or she deems to be appropriate. The Legislative
4 Analyst is solely responsible for determining the content of the
5 analysis required by this section. ~~The~~

6 (e) ~~The title of the measure which that~~ appears on the ballot
7 shall be amended to contain a summary of the Legislative Analyst's
8 estimate of the net state and local government ~~financial~~ fiscal
9 impact.

10 (f) *If a measure qualifies for the ballot and the Legislative*
11 *Analyst's analysis pursuant to this section determines that the*
12 *measure would (1) establish a new or expanded program, (2) cost*
13 *more than one million dollars (\$1,000,000) per year, excluding*
14 *costs attributable to the issuance, sale, or repayment of general*
15 *obligation bonds, if implemented, and (3) does not either provide*
16 *new revenues or eliminate all or part of existing programs*
17 *sufficient to pay the cost of the new or expanded program or*
18 *service, a paragraph shall be added to the summary statement*
19 *established pursuant to Section 88002.5 of the ballot pamphlet*
20 *prepared pursuant to Section 88000, stating as follows:*

21 *"This measure does not include sufficient funds to pay the cost*
22 *of the new or expanded program or service provided therein.*
23 *Therefore, should the measure pass, other programs or services*
24 *provided by the state would need to be reduced or eliminated, or*
25 *new state revenues raised, in order for the measure to be*
26 *implemented."*

27 SEC. 4. The Legislature finds and declares that this act permits
28 or requires the inclusion of additional information on the ballot
29 pamphlet in accordance with Section 88007 of the Government
30 Code.